

Flag Aides

Key References: 5 C.F.R., Part 2635; DOD 5500.7-R (Joint Ethics Regulation [JER])

Key Concepts:

- Flag Aides can be used for official or authorized government purposes only. "Flag Aides" refers to personnel who work in direct support of Flag Officers such as Executive Assistants, Flag Lieutenants, Flag Secretaries, Protocol Officers, Flag Writers, and other enlisted personnel assigned to a Flag Officer's personal staff, with the exception of Enlisted Aides.
- Flag Aides are assigned to enable Flag Officers to perform their official duties more effectively. A Flag Aide may perform duties on behalf of a Flag Officer that the Flag Officer would otherwise be required to perform in the execution of his or her official duties. As a general rule, Flag Aides may not plan or coordinate unofficial personal events, or, perform unofficial personal tasks, even if doing so would give the Flag Officer more time to focus on official business.
- The standard for use of Flag Aides is based on principles contained in the DoD Joint Ethics Regulation that federal employees may not use their public offices for private gain, may not accept gifts (including gifts of time or services) from subordinates except in limited circumstances, and may not misuse government resources.
- The standard for use of Flag Aides is more stringent than the standard governing use of Enlisted Aides. Use of Enlisted Aides, formerly referred to as Personal Quarters Culinary Specialists, is governed by OPNAVINST 1306.3 series, which states that Enlisted Aides may perform duties "reasonably connected" to the Flag Officer's official duties.

Examples: The following examples illustrate duties a Flag Aide may, and may not, be asked to perform. This list is not all-inclusive. **Both Flag Officers and their aides should seek advice from their Staff Judge Advocate or General Counsel** in cases of uncertainty. **Ultimately, however, Flag Officers have final responsibility for the proper employment of their Flag Aides.**

• **Examples of permissible duties:**

- Schedule official appointments.
- Schedule unofficial appointments if reasonably necessary to ensure coordination with the official schedule and the scheduling process for these events involves minimal effort.
- Coordinate with family members to obtain information necessary to avoid conflicts between personal and official travel of Flag Officer.
- Schedule medical appointments for Flag Officer.
- Act as aide or escort for spouse or family member accompanying Flag Officer in an approved, representational role, while the spouse or family member is actually performing representational duties.
- Assist family members and friends as necessary to facilitate their attendance at official ceremonies honoring the Flag Officer, e.g., assistance with entry to the military facility or escort within the installation to ensure such guests reach the proper location.

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- o Such assistance must comply with existing regulations on use of official vehicles.
 - o Maintain and write checks from a checking account, funded by the Flag Officer, for expenses incurred by the Flag Officer that arise from official duties (e.g., paying a restaurant bill while on official travel) or are closely related to official duties (e.g., purchase ball caps or command coins where appropriated funds may not be used.) Aides may not deposit their own money in such accounts even if the Flag Officer subsequently reimburses the aide.
 - o Supervise Enlisted Aide in performance of their duties.
 - o Pick up meal from an official mess.
 - o If it is determined to be an appropriate use of a GOV, Flag Aide may pick up Flag Officer in GOV at airport upon return from official travel for transportation to official place of duty or residence. (Note: Special rules apply to use of government vehicles at public air terminals in the National Capitol Region.)
 - o While on temporary duty outside the area of the permanent duty station, a Flag Aide may perform certain tasks that would not be permissible at the permanent duty station. Such tasks should relate to the duties, health, or subsistence of the Flag Officer, and take into account the Flag Officer's schedule. For example, the aide may drive the Flag Officer from quarters to work, or to a gym, laundry facility, or restaurant. The aide may also go to the exchange to purchase uniform items needed by the Flag Officer prior to a morning meeting. On the other hand, the aide should not be sent to purchase uniform items when the Flag Officer has an afternoon free and can walk or drive to the exchange.
- **Examples of impermissible duties.** Flag Aides may not provide personal services to Flag Officers or their families, except as provided below under the paragraph "Minor Voluntary Services," which identifies limited occasions when performance of such services is acceptable. Generally, personal services are unofficial and therefore beyond the scope of the Flag Aide's duties. Examples of impermissible personal services include:
 - o Pick up or drop off Flag Officer at home while car is being repaired.
 - o Provide local transportation for Flag Officer in aide's POV, e.g., drive Flag Officer home from office at end of workday.
 - o Repair Flag Officer's POV or other personal property.
 - o Pick Flag Officer up at airport upon return from unofficial travel.
 - o Draft Flag Officer's personal correspondence.
 - o Prepare Flag Officer's income taxes.
 - o Run personal errands for the Flag Officer while in area of permanent duty station, such as picking up dry cleaning, taking car to service station, bringing his or her lunch from a commercial establishment to the office.
 - o Participate in packing or unpacking the Flag Officer's personal property, moving furniture, or supervising movers, pursuant to the Flag Officer's PCS move. (Enlisted Aides may permissibly perform some of these functions.)
 - o Accompany Flag Officer and collect per diem while Flag Officer is taking leave in conjunction with TAD travel, except when the Flag Aide is performing official duties (which does not include mere personal services). The Flag Aide also could take leave.
 - o Schedule and/or coordinate personal events for family members,

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including medical appointments. Assist Flag Officer's family members with personal business (e.g., pet care, private lessons, childcare, etc.).

- o Plan a party for or on behalf of spouse or family member.
- o Schedule transportation and lodging for unofficial travel of family members unless family members are actually accompanying the Flag Officer and family members' scheduled flight and lodging reservations are identical to the Flag Officer's official itinerary. Adding family members to the itinerary must be completely incidental.
- o Transport or escort Flag Officer's unofficial visitors.
- o Do personal shopping for Flag Officer or family.

- **Minor Voluntary Services.** Flag Aides may perform personal services for the Flag Officer if such services are:

(1) Rare - provided on a one-time-only or **very** infrequent basis; and,

(2) Minor - of short duration and minimal value. (Note: With limited exceptions, the Joint Ethics Regulation forbids seniors from accepting any gift from a subordinate with a fair market value over \$10.00. If an aide voluntarily performs a service that could reasonably be said to have a fair market value greater than \$10.00, the aide may perform the service if compensated at fair market value by the Flag Officer. An aide may not be compensated for voluntary service that takes place during normal duty hours.); and,

(3) Truly voluntary - whether a service is "truly voluntary" depends on the surrounding facts and circumstances. Factors include, but are not limited to: originator of the idea for the service (Flag Officer or aide), extent to which the service causes aide to modify ordinary routine or plans, whether the service is provided incidental to an activity the aide will perform anyway, and the aide's perception and description of the service as well as freedom to decline to perform the service.

Acceptable examples of uncompensated services could include, but are not limited to: Flag Officer's car is in the shop, and aide offers Flag Officer a ride home, which is on the way to, or very near, the aide's home; aide goes to the store for herself and offers to get an item for the flag officer; or, aide prepares an item of simple, personal correspondence for Flag Officer. To be permissible, each of these examples, and all other similar services, must satisfy the three-part test of rare, minor, and truly voluntary.

Caution: While an offer may meet the criteria of rare, minor, and voluntary, often it is in the Flag Officer's best interest to reject the offer as the criteria are difficult to show after the fact and because the assistance may create the appearance of favoritism and/or fraternization.